

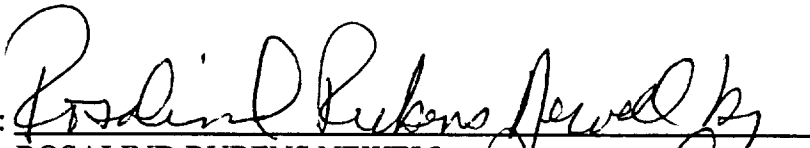
Entered - 05/19/00 - sb
CL00L0320 - DIANNE C. MITCHELL

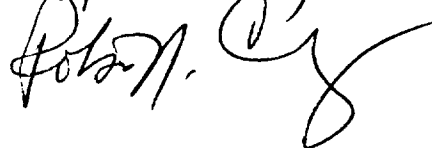
01-R-0012

**CLAIM OF: JANETTA THOMPSON, individually and as
Administratrix and natural mother of KENIKO
TREMONTÉ WILLIS, deceased,
through her attorney,
John C. Dabney, Jr.
Suite 2100
100 Peachtree Street, NW
Atlanta, Georgia 30303-1912**

For damages alleged to have been sustained as a result of a
vehicular accident on November 25, 1999 at Perry Boulevard near
Habershaw Drive.

THIS ADVERSED REPORT IS APPROVED

BY: 
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY



DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0320

Date: December 28, 2000

Claimant /Victim JANETTA L. THOMPSON, individually, and as Administratrix
and natural mother of KENIKO TREMONTE WILLIS, deceased
BY: (Atty) John C. Dabney, Jr.
Address: Suite 2100, 100 Peachtree Street, NW, Atlanta, Georgia 30303-1912
Subrogation: Claim for Property damage \$ Bodily Injury \$ 1,150,000.00
Date of Notice: 05/19/00 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 11/25/99 Place: Perry Boulevard near Habershaw Drive
Department: Public Works Division: Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that due to standing water in the roadway, the vehicle she was driving hydroplaned, left the roadway and collided with two trees. The claimant was injured and her child was killed as the result of this accident. The claimant alleges that the City was negligent in its failure to keep the roadways safe, however, the City had no notice of any problems in the area prior to the claimant's accident.

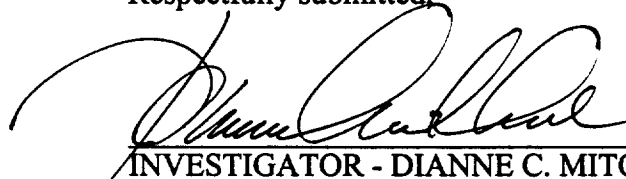
INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police X Dept Report X Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: Concur/date 12-28-00
Committee Action: Council Action

WILLIAM C. LANHAM, P.C. (AL & GA)
CLARK H. MCGEEHEE, P.C.
JOHN C. DABNEY, JR.
BAXTER P. JONES
WILLIAM D. DE GOLIAN, P.C.
BRUCE A. MAXWELL

JOHNSON & WARD
ATTORNEYS AT LAW
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Mitchell
05/19/00
pm

OF COUNSEL
JAMES E. GOODMAN

INSLEE M. JOHNSON (1911-1996)
CULLEN M. WARD (1921-1979)

May 15, 2000

ENTERED - 5-19-00 - SB
00L0320 - DIANNE MITCHELL

Via Certified Mail
Return Receipt Requested

Honorable Robb Pitts, President
Atlanta City Council
55 Trinity Avenue, Suite 2900
Atlanta, Georgia 30303

RE: Ante Litem Notice
Claimant: Janetta Thompson
Date of Accident: 11-25-99

Dear Mr. Pitts and Members of the City Council:

I represent Janetta L. Thompson in conjunction with her claim, individually, and as administratrix and natural mother of Keniko Tremonte Willis, in a claim against the City of Atlanta arising out of the maintenance of a nuisance.

On November 25, 1999, Ms. Thompson was driving her infant son in a properly fastened infant child restraint. She was traveling on Perry Boulevard at approximately 10:30 PM near its intersection with Habershaw Drive. This location lies within the City of Atlanta. It was dark and rainy. Ms. Thompson passed through the intersection at ten to fifteen miles per hour. She drove through standing water, hydroplaned, and ran off the road into two trees. The blood alcohol test performed at the State Crime Laboratory was negative. (The styrofoam cup in the console had been used by Ms. Thompson's uncle who had exited the car a few moments before the accident.) A copy of the incident report is enclosed as Exhibit "A". Jermario Spears is expected to testify that he unbuckled Keniko Tremonte Willis from the front passenger seat of the automobile where he was properly restrained. Nevertheless, Keniko was killed. At the time, he was five weeks old. His life expectancy according to the Annuity Mortality Table for 1949, Ultimate, would have been 73.81 years. The economic value of his life would have been in excess of Two Million Dollars.

Ms. Thompson suffered a number of serious injuries as the proximate result of the standing water. She fractured her right shoulder. She suffered facial trauma and a comminuted distal fractures of her tibia and fibula with intra articular component. An open reduction and internal fixation was necessary using k-wire, plates, and screws. She sustained a pylon fracture of her right ankle. Ms. Thompson was hospitalized at Grady for twenty days. A copy of her hospital chart and bills is enclosed respectively as Exhibits "B" and "C". Her medical bills at Grady total \$27,822.53. Ms. Thompson has healed slowly from these injuries, and anticipates

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Robb Pitts
May 15, 2000

some permanent disability as a result of these fractures and attendant surgery.

Liability against the City is predicated upon the provisions of O.C.G.A. § 36-33-1. Subsection (a) renders the City liable for negligence to the extent of the purchase of liability insurance. Please accept this letter, together with Ms. Thompson's Affidavit as a request for a statement under oath of the applicable limits of liability coverage.

Subsection (b) of this statute imposes liability upon the City "for neglect to perform or improper or unskilled performance of their ministerial duties...." Under the provisions of O.C.G.A. § 32-4-93 a municipal corporation has the duty to exercise ordinary care in keeping its streets and sidewalks in a reasonably safe condition, and are liable for injuries resulting from defects after actual notice, or after the defect has existed for a sufficient time to infer notice. Bush v. City of Gainesville, 105 Ga. App. 381, 124 SE2d 667 (1962); (former code 1933, § 69-303); Williams v. City of Social Circle, 225 Ga. App. 746, 484 SE2d 687(1997); Godinho v. City of Tybee Island, 231 Ga. App. 377, 499 SE2d 389 (1998). It was the obligation of the City of Atlanta, Sewer Operations Division to maintain the catch basin which was stopped up at the time. (Exhibit "D") I am advised that this catch basin was stopped up for a period of years. Under these circumstances, the City was negligent and failed in its ministerial duty to maintain Perry Boulevard in a reasonably safe condition.

We have been authorized to settle infant Willis's case for One Million Dollars (\$1,000,000.00) and Ms. Thompson's case for One Hundred Fifty Thousand Dollars (\$150,000.00). Please accept this letter as our liquidated demand, pursuant to the Georgia Unliquidated Damage Interest Act, O.C.G.A. § 51-14-11, so as to authorize the accrual of interest at the rate of Twelve percent per annum in the event a jury verdict is returned in this amount or more.

Very truly yours,


John C. Dabney, Jr.

JCD/cmw

Enclosures

01- R-0012